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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,921	07/27/2004	Uwe Emig	103196-00007	6106

4372 7590 12/02/2005  
ARENT FOX PLLC  
1050 CONNECTICUT AVENUE, N.W.  
SUITE 400  
WASHINGTON, DC 20036

EXAMINER

SHRIVER II, JAMES A

ART UNIT PAPER NUMBER

3618

DATE MAILED: 12/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/501,921	<b>Applicant(s)</b> EMIG ET AL.	
	<b>Examiner</b> J. Allen Shriver	<b>Art Unit</b> 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/27/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Priority*

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.
3. **Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** The term "its" in line 6 and "it" in line 7, are both indefinite because this term can represent more than one element, thus making the claim indefinite.
4. Claim 1 recites the limitation "the ends" in line 5. There is insufficient antecedent basis for this limitation in the claim.
5. Claim 13 recites the limitation "the support" in line 2. There is insufficient antecedent basis for this limitation in the claim.

### *Claim Rejections - 35 USC § 102*

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claims 1-2, 4/2, 5/2, 8-9, 13-14/2, 16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Le Masson et al. (US Patent 5,393,086).** Le Masson et al. discloses an alpine ski (1) with an elongate ski body forming a running surface, a mounting (4) for fastening a binding arranged on the upper face of the ski body and rigidly connected therewith and, attached to the ski body extending in the longitudinal direction of the ski body and receiving pressure forces, at least one upper cord element (2), the ends thereof being supported on the ski body (See Fig. 19), the upper cord element being movably mounted relative to the ski body between its ends and constructed such that under the impact of pressure forces it endeavors to deform elastically by flexural buckling and to carry out a deflection movement relative to the ski body and support elements (60,61) being provided on the ski body which counteract the deflection movement of the upper cord element by exerting a counter force; **[claim 2]** characterized in that the upper cord element comprises at least one slightly curved rod which spans the ski in the manner of an arc (See Fig. 19); **[claim 4/2]** characterized in that the rod is arranged relative to the ski body in such a manner that the plane defined by its curved longitudinal axis is oriented perpendicular to the running surface of the ski body; **[claim 5/2]** characterized in that the rod is arranged relative to the ski body in such a manner that the plane defined by its curved longitudinal axis is inclined toward the running surface of the ski body; **[claim 8]** characterized in that the mounting for fastening the binding is connected to the ski body such that the elastic deformability of the ski body is not affected; **[claim 9]** characterized in that the mounting comprises at least two supports (4a,4b) arranged longitudinally at a distance from one another, one support being rigidly connected and the other support longitudinally displaceably connected t

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the ski body (See Fig. 12); [claim 13] characterized in that the support (element) of at least one end of the upper cord element or of a rod forming it is adjustable in the longitudinal direction of the ski body (See Fig. 22f); [claim 14/2] characterized in that at a distance from the ends of the rod fastened to the ski body at least one guide element (60,61) is provided, in which the rod is longitudinally displaceably guided; [claim 16] characterized in that damping elements acting on the upper cord element are provided which dampen the compensating movement of the upper cord element occurring under compressive stress; and [claim 18] characterized in that the ends of the upper cord element are connected to the ski body by a connection transmitting pressure forces and tensile forces and that the upper cord element is constructed and/or mounted such that under the impact of tensile forces it endeavors to deform elastically.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 3, 4/3, 6/5/2, 6/5/3 and 14/3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Le Masson et al. (US Patent 5,393,086) in view of Emig et al. (US Patent 6,679,513 B1).** Le Masson et al. discloses the ski as set forth above, but does not disclose wherein the upper cord element is formed from a plurality of slightly curved rods which are arranged adjacent to one another spanning the ski body. Emig et al. discloses wherein the cord element is formed from a plurality of slightly curved rods (16), which are arranged adjacent to

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one another spanning the ski body. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide a plurality of curved rods as opposed to providing only a single rod in Le Masson et al. The motivation for doing so would have been to allow the separate rods dampen the side of the ski that is experiencing the compressive force during a turn.

*Allowable Subject Matter*

10. Claims 7, 10-12, 15 and 17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

*Conclusion*

11. The prior art made of record in the accompanying PTO Form 892 and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (571) 272-6698. The examiner can normally be reached on Monday, Wednesday and Thursday 6:30 am-6:00 pm and Tuesday 6:30 am-11:00 am.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris P. Ellis can be reached on (571) 272-6914. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

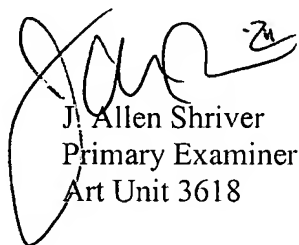
As of May 1, 2003, any response to this action should be mailed to:

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Mail Stop \_\_\_\_\_  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Or faxed to: (571) 273-8300 (for formal communications intended for entry). (571) 273-6698 (for informal communications directly to the Examiner).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
J. Allen Shriver  
Primary Examiner  
Art Unit 3618

JAS